

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

UNITED STATES OF AMERICA)
ex rel. LIESA KYER,)

Plaintiff-Relator,)

vs.)

CIVIL ACTION No. 2:20-cv-00732

THOMAS HEALTH SYSTEM, INC.,)
HERBERT J. THOMAS MEMORIAL)
HOSPITAL ASSOCIATION (d/b/a/)
THOMAS MEMORIAL HOSPITAL),)
CHARLESTON HOSPITAL, INC. (d/b/a)
ST. FRANCIS HOSPITAL),)
THS PHYSICIANS PARTNERS, INC.,)
and BRIAN ULERY,)

Defendants.)

**PETITION OF THE UNITED STATES FOR
LEAVE TO FILE STATEMENT OF INTEREST**

On September 12, 2024, the Court entered an Order (ECF No. 63) directing the parties to file supplemental briefing regarding the effect of *Loper Bright Enterprises v. Raimondo* 144 S. Ct. 2244 (2024), if any, on Relator’s Stark Law claim. While the United States has not elected to intervene in this matter, the interests of the government may nevertheless be implicated by a decision on this question.

As such, depending on the content of the parties’ briefs, the United States may wish to file a statement of interest for the Court’s consideration. Pursuant to 28 U.S.C. § 517, the Attorney General is authorized to “attend to the interests of the United States in a suit pending in a court of the United States...” 28 U.S.C. § 517 has been construed to allow the United States to file statements of interest in appropriate cases without leave of the court and without

a specific deadline. *Gil v. Winn Dixie Stores, Inc.*, 242 F. Supp. 3d 1315, 1317 (S.D. Fla. 2017); *Consolidation Coal Co. v. United Mine Workers of Am.*, 191 F. Supp. 3d 572, fn. 7 (N.D.W. Va. 2016)(“Pursuant to that authority, the United States may enter a statement of interest...”). Out of an abundance of caution, however, the United States requests that the Court enter an order granting it leave to file a statement of interest, should it wish to do so, after the parties have filed their briefs and responses contemplated by the Court’s September 12 Order. The Court has ordered the parties to file simultaneous briefs by October 4, 2024, and responses by October 18, 2024. Undersigned counsel accordingly requests until October 25, 2024, to file any statement of interest on behalf of the United States.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing will be served via the Court's electronic filing system and served on all counsel of record on this 1st day of October, 2024.

/s/ Gregory P. Neil
Gregory P. Neil, AUSA